

## Oregon Physician-Assisted Suicide: Theory vs. Practice

Theory	Practice
<p>“The issue is patient autonomy.”</p> <p>“The issue is pain &amp; suffering”</p>	<p>Only 1 request in 6 results in a prescription <sup>1</sup>. If patient autonomy were the issue, all would result in prescription. It’s really about physician autonomy and/or liability.</p> <p>Not one of the 208 suicides in the first 7 years was due to pain; ~20% were because patients feared future pain</p> <p>Neither Oregon law nor VT proposal (H-44) has any requirement that the patient have any pain or suffering, only “terminal illness.”</p>
<p>“Patients just want to know Rx will be available when desired; only 10% will actually be filled.”</p>	<p>171 of 265 (65%) prescriptions written in the first 6 years resulted in patient death.<sup>2</sup></p>
<p>“The decision is between a patient and his or her own physician.”</p>	<p>Only 34% of Oregon MD’s are willing to prescribe lethal drugs.<sup>3</sup></p> <p>75-80% of patients who have died in Oregon received prescription from Compassion in Dying physicians.<sup>4</sup></p> <p>Median duration of professional relationship before death is 13 weeks (1/4 &lt; 1 month).<sup>5</sup></p>
<p>“The law only allows patient-administered lethal drug</p> <p>... no lethal injection</p> <p>... no assistance.”</p>	<p>Dr. Peter Rasmussen (oncologist) says he emptied capsules &amp; stirred drug into pudding for Wanda McMaster (with ALS)<sup>6</sup>; he also prepared the mixture for Barbara Houck (also with ALS) and one of her sons spooned it into her mouth as another gave her water to wash it down.<sup>7</sup> [Why is an oncologist “treating” neurology patients?]</p> <p>Barbiturates used have onset of action 10-15 min., duration of action 4 hours, but several deaths reported &lt;5 minutes or &gt;12 hours after ingestion.<sup>8</sup> What did they die from?</p> <p>At an international PAS euthanasia conference in Toronto, volunteers with the Client Support Program of Compassion and Choices (formerly the Hemlock Society) admit that they are trained to actively assist some clients in taking their own lives.<sup>9</sup></p> <p>Patrick Matheny (Oregon) with ALS was unable to swallow the lethal drug, so brother-in-law “helped him,” but was unwilling to describe the type of “help”; he was not prosecuted.<sup>10</sup></p> <p>After Matheny case, Oregon Deputy Attorney General wrote an opinion that the law may violate the ADA because it precludes “equal access,” and thus may have to be expanded to lethal injection.<sup>11</sup></p> <p>Barbara Coombs Lee, one of the authors of the bill, wrote in the <u>Oregon Health Law Manual</u> that delivery of drug by inhalation or infusion might be “within the scope of the Act.”<sup>12</sup></p>

<p>“PAS will be regulated and monitored.”<sup>13</sup></p> <p>* MD’s required to document all steps and report all cases.</p> <p>* OHD will make annual statistical report.</p> <p>* OHD will report abuses to Board of Medical Examiners”.</p>	<p>OHD has no regulatory authority or resources to detect under-reporting or non-compliance.</p> <p>Law has no penalty for MD who fails to report<sup>14</sup></p> <p>Annual OHD reports have not included several cases of abuse, expansion, and complications reported (voluntarily) by families in newspapers and not contested by PAS advocates.</p> <p>The only MD’s interviewed for the OHD reports are those who have written lethal Rx’s, and it seems unlikely they would report cases that are outside the legal limits.</p>
<p>“The law has safeguards that will prevent abuses and ensure:</p> <p>* patient has &lt; 6 months to live</p> <p>* patient is competent to make decision</p> <p>* patient is not depressed</p>	<p>27% of Oregon MD’s who are willing to write lethal prescription admit they’re not confident of 6-month prognosis.<sup>15</sup></p> <p>OHD reports “number of days between initial request and death --- range from 15-466”<sup>16</sup></p> <p>Of the 42 DWD deaths in 2003, 2 Rx’s were written in 2002, 1 in 2001; far greater than 6 months.</p> <p>Joan Welch (late wife of Congressman Peter Welch) was given a 6-month prognosis from cancer; thankfully the doctor was wrong; she lived for another 9 years.<sup>17</sup></p> <p>Art Buchwald’s doctor told him he had only a few weeks to live in February 2006 and recommended hospice care. After spending several months saying goodbye to family and friends, he did not die and was discharged from hospice 5 months later. He went home to write a new book entitled “Too Soon to Say Goodbye” and was still alive nearly a year after receiving the terrible prognosis.<sup>18</sup></p> <p>13% of patients admitted to hospice (less than 6 month survival required) are discharged alive each year.<sup>19</sup></p> <p>Kate Cheney was found to “lack the capacity” by psychiatrist (consult report released to newspaper) and to have “cognitive deficits” by psychologist, but her HMO medical director wrote the lethal prescription anyway.<sup>20</sup></p> <p>The percentage of patients dying by PAS who have been referred for mental health evaluations has dropped from 37% in 1999 to 5% in 2003. Only 6% of Oregon psychiatrists are confident they can diagnose depression after just 1 visit<sup>21</sup></p> <p>1<sup>st</sup> patient to die under Act was refused Rx by her own and another MD because she was depressed; lethal prescription was then written by a Compassion in Dying MD<sup>22</sup></p>

<p>* patient is not coerced.”</p>	<p>Michael Freeland was given a prescription for lethal pills by a Compassion in Dying MD who offered to refill it if MF lived longer than 6 months. Over a year later, MF was admitted to a psychiatric hospital with depression and violent suicidal intent. He was treated and improved. When discharged, his MD ensured that his guns were removed from his home, but allowed him to keep his lethal Rx refill.<sup>23</sup></p> <p>Both the psychiatrist and the psychologist who evaluated Kate Cheney felt her daughter was pressuring her.<sup>24</sup></p>
<p>“There have been virtually no complications reported in first 6 years by OHD.”</p>	<p>MD is generally not present, so may not know of complications.</p> <p>One family called 911 when patient had unspecified symptoms; he was taken to ER and resuscitated.<sup>25</sup></p> <p>David Pruett swallowed the full dosage of his lethal prescription and slept soundly for 65 hours. He then awoke and said. “What the Hell happened? Why am I not dead?” He decided not to repeat the unsettling experience and died naturally some time later.<sup>26</sup></p>
<p>“The drugs used are safe &amp; effective.”</p>	<p>Same dosage of same drugs are used in the Netherlands for physician-assisted suicide, and 3 different reports found 16%,<sup>27</sup> 20%<sup>28</sup> and 25%<sup>29</sup> “failure rate” (patient didn’t die) so that subsequent lethal injection had to be given to cause death.</p> <p>OR MDs say they have switched to liquid form of pentobarbital, but the only liquid form available is approved by the FDA for injection only.</p>
<p>“Economic factors are not the issue; only 2% of patients who have died under the Act report finances as a reason.”</p>	<p>OR Medicaid pays for physician-assisted suicide, but denies payment for &gt;150 medical services.<sup>30</sup></p> <p>Qual Med HMO pays for physician-assisted suicide, but has a \$1,000 cap on hospice care.<sup>31</sup></p> <p>Med Director of Kate Cheney’s HMO wrote her prescription after 2 of his MD’s declined.<sup>32</sup></p>
<p>“The data reported by the Oregon Division of Health is reassuring.”</p>	<p>The ODH itself admits this claim is fallacious: “The Oregon Health Division is charged with collecting information under the Death With Dignity Act but is also obligated to report any cases of noncompliance with the law to the OR Board of Medical Examiners. Our responsibility to report noncompliance makes it difficult, if not impossible, to detect accurately and comment on underreporting. Furthermore, the reporting requirements can only ensure that the process for obtaining lethal medications complies with the law. We cannot determine whether physician-assisted suicide is being practiced outside the framework of the Death With Dignity Act.”<sup>33</sup></p> <p>And they also say, “For that matter, the entire account could have been a cock and bull story. We assume, however, that MD’s were their usual and careful selves.”<sup>34</sup></p> <p>From 1998 to 2003, the number of PAS deaths is up 279%, and number of lethal Rx’s written is up 263%. This is not reassuring.</p>

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- <sup>2</sup> OHD data: [www.ohd.hr.state.or.us/chs/pas/ar-tbl-1.cfm](http://www.ohd.hr.state.or.us/chs/pas/ar-tbl-1.cfm)
- <sup>3</sup> Ganzini L, et al. Oregon physicians' attitudes about and experiences with end-of-life care since passage of the Oregon Death With Dignity Act. *JAMA* 2001;285:2363-9
- <sup>4</sup> Goodwin P. audiotape of Hemlock Society Conference, 1/11/03
- <sup>5</sup> <http://www.internationaltaskforce.org/orstats.htm>
- <sup>6</sup> Associated Press; Salem, OR; 2/24/00
- <sup>7</sup> Frey J. A death in Oregon: One doctor's story. *Washington Post* 11/3/99
- <sup>8</sup> Hedberg K. Five years of legal physician-assisted suicide in Oregon. *N Eng J Med* 2003;348:961-4
- <sup>9</sup> <http://www.lifesite.net/ldn/2006/sep/06091905.html>
- <sup>10</sup> Barnett EH. Man with ALS makes up his mind to die. *Oregonian* 3/11/99
- <sup>11</sup> Schuman D. Official Oregon Department of Justice letter to Senator Neil Bryant, 3/15/99
- <sup>12</sup> Lee BC, Stutsman ED. "Life & Death Decisions" in Oregon Health Law Manual, Vol 2, 1997; Oregon State Bar
- <sup>13</sup> Oregon Death With Dignity Act. Oregon Revised Statutes 127.800-127.890, 127.895, 127.897
- <sup>14</sup> *American Medical News*. 9/7/98
- <sup>15</sup> *ibid.* Ganzini 2001
- <sup>16</sup> *ibid.* Hedberg 2003
- <sup>17</sup> Welch for Congress campaign ad on TV throughout Vermont, summer 2006
- <sup>18</sup> Boodman SG. "Kissing Hospice Goodbye" in *Washington Post* October 3, 2006
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- <sup>34</sup> OHD Summary Report 3/16/99, page 2